IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20/10/2004

Coram

The Honourable Mr. Justice V. KANAGARAJ
and
The Honourable Mr. Justice T.V. MASILAMANI

C.A. No.196 of 2002

Teakon .. Appellant

-vs-

State by Inspector of Police,
Valparai Police Station
Valparai,
Coimbatore District.
(Crime No.111/97) .. Respondent

Criminal Appeal against the judgment made in S.C.No.126 of 1998
dated 11.12.1998 on the file of the Principal Sessions Judge, Coimbatore.

!For Appellant : Mr.A.Ganesh

^For Respondent : Mr.E.Raja,
Addl.Public Prosecutor.

:JUDGMENT

T.V. MASILAMANI, J.

The appellant is the accused in the Sessions Case No.126 of 1998 on the file of the Principal Sessions Judge, Coimbatore. He was convicted under Sections 392 r/w. 397, 302, 323 and 201 (Part-I) I.P.C. by the Principal Sessions Judge, Coimbatore on 11.12.1998 and he has preferred this appeal questioning the legality of the same.

2. The appellant herein is referred to hereunder as accused for the sake of convenience.

3. The charge against the accused in substance may be extracted hereunder:-

On 13/14.5.1997 at mid night in Nadumalai Estate, South division in Valparai, the accused with the intention to commit robbery after committing murder of the deceased Saraswathi @ Chinnammal in the backyard of her house,

attacked her with iron rod and robbed her of two sovereign of gold chain worth Rs.6,000/-. In the course of the same transaction, the accused had assaulted the witness Perumal Ammal @ Thangammal, mother of the deceased and also strangulated her neck with intention to commit murder. In the course of the same transaction, the accused had with the intention to cause the evidence of the offence to disappear, dragged the dead body of Saraswathi @ Chinnammal into the tea garden and buried the same. Hence, he is liable to be punished under Sections 392, 302, 307, 201 r/w 301 I.P.C.

4. Since the accused denied the charges framed against him, the prosecution examined 16 witnesses, marked 20 documents and produced 13 material objects to bring home the guilt of the accused.

5. The case of the prosecution as discerned from the prosecution evidence may be set out briefly as hereunder:-

(a) Perumal Ammal @ Thangammal (since deceased) is the eye-witness in this case who lodged the complaint, Ex.P-18 in the hospital where she was admitted after the occurrence for treatment and Ex.P-19 is the first information report prepared by P.W.14, the then Sub Inspector of Police, Valparai Police Station who recorded the complaint from the said Perumal Ammal @ Thangammal and prepared the printed F.I.R. which set the law in motion.

(b) The accused as well as the deceased were working in Nadumalai Estate, Valparai as labourers in the tea estate. While so, on 13/14.5 .1997 at mid night 12.00 O'Clock while the deceased Saraswathi @ Chinnammal came out of her house to attend the natural call, the accused had assaulted her with M.O.2, iron rod and caused the fatal injuries as a result of which she succumbed to the same. The accused had also committed robbery by snatching away from the neck of the deceased the gold chain weighing 2 sovereign worth Rs.6,000/- which is marked as M.O.1. When Perumal Ammal @ Thangammal, mother of the deceased happened to witness the occurrence, the accused had also assaulted her and caused injuries with the intention to commit murder. Thereafter, the accused dragged the body of the deceased into the tea garden and buried the same. P.Ws.1 and 2 had witnessed the occurrence.

(c) P.W.3, another worker in the same tea estate known to the accused, had lent his gold chain weighing 2 sovereign to the accused as the latter requested him to give his chain as he had to go to another place of importance and since the accused failed to return the same till the day before the occurrence, P.W.3 warned him of the consequence that if he failed to return the gold chain, he would lodge a complaint to the police.

(d) P.W.4, son of the said Perumal Ammal @ Thangammal and brother of the deceased, is working as driver in the Government Transport Corporation at Valparai. He learnt about the incident on 14.5.1997 at about 3.30 A.M. in the early hours and came to the place of occurrence and took his mother Perumal Ammal @ Thangammal to Valparai Government Hospital. She narrated about the incident to P.W.4 in the hospital. P.W.9 doctor who treated Perumal Ammal @ Thangammal issued the wound certificate, Ex.P-11 and

sent intimation to the police under Ex.P-1 0.

(e) Having received the said intimation, P.W.14, Sub Inspector came to the hospital on 14.5.1997 at 5.30 A.M. and recorded the complaint from Perumal Ammal @ Thangammal under Ex.P-18 and prepared printed F.I.R., Ex.P-19 and sent the same to the Judicial Magistrate, Valparai as well as the copies to the higher officials.

(f) P.W.15 Inspector of Police in-charge of Valparai Police Station took up the investigation having received the copies of Exs.P-18 and P-19 at 12.00 noon on 14.5.1997 and proceeded to the place of occurrence. He issued requisition for exhumation of the dead body under Ex.P-6 to P.W.8 Tahsildar, Valparai. P.W.8 along with P.W.10 doctor went to the place of occurrence, exhumed the body and proceeded to conduct the inquest as well as the post-mortem. The inquest report prepared by P.W.8 is Ex.P-8.

(g) Ex.P-12 is the post-mortem certificate issued by P.W.10 doctor after conducting port-mortem on the dead body of Saraswathi @ Chinnammal at the place of occurrence in pursuance of the requisition given by P.W.8 under Ex.P-7. P.W.10, the Autopsy Surgeon, found the following injuries on the dead body of the deceased:-

"Injuries:
1. Laceration over the right side of occipital bone oblique 5 cm x 2 cm x 2 cm underlying structures lacerated, bone fractured depressed, covered with sand and blood clots.
2. Laceration over the right side of occipital bone oblique 2 cm below and parallel to wound 1.1 cm x 1 cm x 1 cm covered with sand and blood clots.
3. Laceration occipito-parietal region oblique left side 4 cm x 2 cm x 2 cm. Wound covered with sand and blood clots, underlying bone fractured and depressed. On removing the scalp bones broken into fragments, depressed in wounds 1 and 3. The occipital bone broken into fragments on the right and left sides and left parietal bone. On removing the skull bones haematoma seen underlying membranes lacerated with laceration of brain brain substance and vessels."

She has opined that the deceased would appear to have died of shock due to extensive haemorrhage, multiple fractures and injury to brain about 17 to 20 hours prior to autopsy.

(h) P.W.15 continued his investigation and prepared observation mahazar, Ex.P-1 in the presence of P.W.6 and another witness and also prepared the rough sketch, Ex.P-20. Thereafter he recovered M.O.3, blood stained earth and M.O.4, sample earth in the presence of the same witnesses under cover of mahazar, Ex.P-2 and he had also arranged to take photographs of the place of occurrence.

(i) On the same day at 5.45 P.M., P.W.15 arrested the accused in the bus stop at Samathapuram in Nadumalai Estate and recorded his voluntary confession in the presence of P.W.7 and another witness. In pursuance of the

admissible portion of confession, Ex.P-5, the accused had taken the police party along with witnesses to the tea garden No.1 4 in Nadumalai Estate and produced M.O.2, iron rod and M.O.5, picas which had been recovered by P.W.15 under cover of mahazar, Ex.P-3 in the presence of the same witnesses. Thereafter, the accused took them to his house and produced M.O.1 gold chain weighing 2 sovereign and the same was recovered by P.W.15 under cover of mahazar, Ex.P-4 in the presence of P.W.7 and another and recorded their statements. On the same night at 8.30 P.M., he brought the accused to the police station and sent him to lock-up. On 15.5.1997, P.W.15 forwarded the accused along with the material objects to the Judicial Magistrate for remand.

(j) On 15.5.1997, P.W.15 examined Thangammal who was admitted to Medical College Hospital at Coimbatore for treatment and obtained her statement. He examined P.W.5 and other witnesses in Valpalai Police Station on the same day and recorded their statements. Thereafter he examined P.W.10 doctor in the Government Hospital and recorded her statement.

(k) P.W.16, the Inspector who succeeded P.W.15 continued the investigation and gave requisition Ex.P-14 to the Judicial Magistrate, Valparai to send the material objects for chemical analysis. Further, on 7.6.1997, he examined P.W.8 Tahsildar and another witness and recorded their statements. On 16.8.1997, he examined P.W.9, doctor who treated Thangammal after obtaining Ex.P-11 wound certificate. After completing the investigation, he laid the final report against the accused on 22.4.1998 under Sections 302, 392, 307, 201 r/w 301 I.P.C.

6. On 23.12.1997, Perumal Ammal @ Thangammal died and therefore even though she was cited as prosecution witness, she could not be examined during trial.

7. When the accused was questioned under Section 313 Cr.P.C. with reference to the incriminating circumstances in the evidence let in by the prosecution, he denied the same. He examined one witness and marked two documents on the side of defence.

8. The learned Principal Sessions Judge having analysed the evidence both oral and documentary arrived at the penultimate conclusion that on the fateful night, the accused with the intention to commit robbery beat the deceased with iron rod on her head and caused fatal injuries to which she succumbed at the place of occurrence. Thereafter, he committed robbery in snatching the gold chain weighing 2 sovereign from her neck. Further, the accused had also dragged the deceased Saraswathi into the tea garden and buried her with the intention to cause the evidence to disappear. Further he had also attacked Thangammal, mother of the deceased who happened to witness the occurrence and caused injuries. In the above circumstances, the learned trial Judge found the accused guilty under Sections 392 r/w. 397, 302, 323 and 2 01 (Part-I) I.P.C. and sentenced him to undergo rigorous imprisonment for 7 years under Section 392 r/w 397 I.P.C. and life imprisonment under Section 302 I.P.C. and rigorous imprisonment for one year under Section 323 I.P.C. and also ordered the sentence to run concurrently.

9. The learned counsel for the appellant/accused has therefore submitted that the judgment of conviction and sentence passed by the learned Principal Sessions Judge has to be reversed on any of the grounds averred in the memorandum of appeal. Firstly, he has contended that the trial court erred in believing the uncorroborated testimony of P.W.1 and P.W.2. There is no explanation on

the part of either P.W.1 or P.W.2 in not lodging the complaint at the earliest opportunity if really they had witnessed the occurrence. It is the further contention put forth by him that the subsequent conduct of P.Ws.1 and 2 in respect of their failure to inform anyone about the occurrence till the police enquired would also probablise the defence version.

10. Similarly, he has argued that P.W.5 to whom the injured complainant narrated about the incident also failed to lodge any complaint to the police about the occurrence. Therefore his evidence is not only artificial but also becomes unbelievable. It is contended further that P.W.4, son of Thangammal and brother of the deceased who came to the scene of occurrence after receiving information about the occurrence failed to inform the police and also to search for his sister, the deceased in this case. Hence, he would urge that his evidence also becomes suspicious in the circumstances of the case.

11. Regarding the arrest of the accused also, the prosecution evidence is not cogent and therefore the learned counsel has argued that on that ground alone, the judgment of conviction and sentence rendered by the trial court has to be set aside. Similarly, the medical evidence with reference to absence of any bruises and abrasions found in the dead body of Saraswathi would go to show and prove that the accused could not have dragged the dead body so as to bury the same. Similarly, he has submitted that the motive alleged for the murder is not only very weak, but also appears to be unbelievable for the fact that the deceased was also wearing two gold bangles and two gold ear studs at the time of occurrence as the same had been recovered after post-mortem from her body. Therefore he has contended that the accused would not have robbed her gold chain alone and it follows that the motive alleged is proved to be false. Regarding the weapon used in the commission of the offence also, the evidence of both P.Ws.1 and 2 is contrary and therefore becomes unbelievable. The learned Sessions Judge ought to have accepted the statement of Thangammal recorded by the Judicial Magistrate as a piece of evidence in favour of of the accused. Thus, the learned counsel for the accused has contended that the trial court verdict has to be reversed.

12. Having regard to the materials available on record and the circumstances as narrated above, it has become necessary to consider whether the prosecution has brought home the guilt of the accused on all charges leveled against him by the prosecution beyond reasonable doubt.

13. The deceased Saraswathi @ Chinnammal and her mother Perumal Ammal @ Thangammal were residing at Nadumalai Tea Estate, South Division in Valparai. P.W.4 Paramasivam, son of said Thangammal and brother of the deceased Saraswathi, is working as driver in the Government Transport

Corporation and he was residing in Kamaraj Nagar, Valparai at the time of occurrence. Similarly, it is not in dispute that the accused, the deceased Saraswathi and Thangammal as well as the witnesses, P.Ws.2, 3, 5 to 7 were known to each other as they were working in Nadumalai Estate tea garden in Valparai. In the above background, the question whether the accused was guilty of the offences charged against him has to be decided.

14. The fact that the deceased died of homicidal injuries is spoken to by P.W.10, Autopsy Surgeon who conduced the post-mortem on the dead body of Saraswathi as per the requisition, Ex.P-7 given by P.W.8 Tahsildar. According to P.W.10, the deceased would appear to have died on account of shock and haemorrhage due to multiple fractures and injuries to the brain about 17 to 20 hours prior to the autopsy and to that effect she has issued Ex.P-12, post-mortem certificate. Further P.W.10 has stated that the injuries 1 to 2 noted in Ex.P-12 could have been caused with a weapon like M.O.1, iron rod and such injuries could cause death within few minutes after the attack. The totality of the medical evidence as narrated above would indicate that the deceased died on account of homicidal injuries and therefore we are of the considered view that the culpability of the accused with reference to causing of such injuries has to be determined on the basis of the recorded evidence.

15. It is necessary to analyse the evidence of the prosecution with reference to the motive alleged for the commission of the offence. According to P.W.3, a co-worker in the estate, the accused had borrowed his gold chain weighting about 2 sovereign prior to the occurrence under the pretext that he would return the same after visiting another place wearing the chain. Since the accused was evading to return the gold chain to P.W.3 under one pretext or other, P.W.3 finally gave a ultimatum to him on the previous day of the occurrence that if he failed to return the chain, he would lodge a complaint to the police.

16. It is in the evidence of P.Ws.1 and 2 that the deceased Saraswathi was wearing M.O.1 gold chain with dollar weighing about 2 sovereign and there is no reason shown to disbelieve their evidence, as neighbours, they had every occasion to see the deceased wearing the said chain. It is in these circumstances, we are unable to accept the contention put forth by the learned counsel for the accused that the motive alleged for the commission of the crime cannot be considered to be true.

17. In view of the above evidence, we have no hesitation to hold that despite vigorous cross-examination, P.W.3 is consistent in his version that whenever he asked the accused to return the gold chain, he was evading to comply with the demand. It is relevant to note that he has empathetically denied the suggestion that the accused had not borrowed any gold chain from him. It is in these circumstances, we find no circumstance to disbelieve testimony P.W.3 on this aspect of the matter. It follows necessarily that the prosecution has succeeded in establishing the motive for the commission of the offence by the accused.

18. Nextly, the testimony of P.Ws.1 and 2 has to be scrutinised as to whether the same is liable to be rejected for any of the reasons stated by the

accused in the memorandum of appeal. P.W.1 is residing in the adjacent house where the deceased and her mother Thangammal were also residing. According to him, on 13/14.5.1997 at mid-night about 12.00 O'Clock, he heard noise outside and he opened his door and saw the accused attacking the deceased twice on her head with M.O.2, iron rod and after she fell down, he snatched the gold chain M.O.1 from her neck and put the same in his pocket. Similarly, he has stated that the accused on seeing Thangammal witnessing the occurrence had strangulated her neck with hands and shut her mouth and also fisted on her chest and pushed her to the ground. Further according to him, the accused dragged the deceased into the tea garden. He has also explained that he could not help them on account of the fear psychosis as the accused was armed with weapon.

19. In this context, the salient particulars of the incident spoken to by P.W.1 as ocular witness have been materially corroborated by P.W.2 who was also residing in the adjacent house of P.W.1. The learned counsel for the accused would contend that the conduct of P.Ws.1 and 2 in not informing the police or any one about the incident would indicate that they could not have witnessed the occurrence. On the contrary, as has been rightly argued by the learned Additional Public Prosecutor, both the witnesses did not stir out of their houses due to apprehension that the accused would attack them also and we are therefore hold that in view of the normal course of human conduct, they appear to be natural witnesses.

20. Similarly, the learned counsel for the accused has argued that the contradictions between the evidence of P.W.1 and P.W.2 on the one hand and the medical evidence on the other in support of the contention that the prosecution case is not true. He has stated that that the accused would not have dragged the dead body of Saraswathi to a distance of about 120 feet (vide) Ex.P-20 sketch as P.W.10 doctor would admit that there were no abrasions or bruises found on the body of the deceased at the time of post-mortem and therefore he would urge that the evidence of both the witnesses has to be rejected.

21. It is however relevant to note that the deceased was wearing saree, blouse and under garments (vide) evidence of P.W.12, Constable who recovered the clothes and other material objects recovered from the body of the deceased after post-mortem. Hence it stands to reason as also explained by P.W.10, postmortem doctor that there was no abrasion found on the back of the dead body of the deceased. In view of such factual aspect of the matter, we are unable to agree with the defence counsel in this respect and therefore we render a finding that the evidence of P.Ws.1 and 2 is cogent and convincing.

22. The medical evidence as narrated above has corroborated the version of both P.W.1 and P.W.2 that the homicidal injuries found on the dead body of Saraswathi could have been caused by the accused with M.O.2, iron rod. In this regard, the evidence of P.W.9, the doctor who treated Thangammal and issued the wound certificate, Ex.P-11 assumes importance. It is no doubt true that as per the evidence of P.W.16, Investigating Officer, Thangammal died on 23.12.1997, long after the occurrence and therefore the prosecution was not in

a position to examine her before the trial court. However, the fact remains that the evidence of both P.Ws.1 and 2 regarding the assault by the accused resulting in the injuries as found by P.W.9 on the injured Thangammal found proved by the oral testimony of P.W.9 and the wound certificate, Ex.P-11.

23. Moreover, such evidence finds corroboration in the testimony of P.W.4, son of the said Thangammal (since deceased). After hearing the incident at about 3.30 A.M. in the early hours of 13/14.5.1997, he came in a taxi to the residence of his mother and took her immediately to the Government Hospital, Valparai for treatment. Though the learned counsel for the accused would draw our attention that P.W.4 had neither made an attempt to trace his sister nor informed the police immediately, when regard being had to the natural course of human conduct, one would be anxious to get his mother admitted to the hospital at the earliest for treatment and therefore, we do not see any unnatural conduct on the part of P.W.4 in this respect.

24. The complaint Ex.P-18 was recorded by P.W.14 Sub Inspector, Valparai Police Station from Thangammal at 5.30 A.M. on 14.5.1997 under Ex.P-10 intimation given by P.W.9 doctor at 5.00 A.M. soon after admitting Thangammal to the hospital for treatment and Ex.P-10 discloses that the same was received by P.W.14 at 5.30 A.M. Therefore the evidence of P.Ws.9 and 14 coupled with Exs.P-10 and P-11 would speak volume of testimony to corroborate the evidence of both P.Ws.1 and 2 regarding the occurrence. As stated earlier, the author of the complainant, Ex.P-18 Thagammal died subsequently and therefore the evidence of P.W.14 would cure the lacunae in this context. Having regard to the above evidence both oral and documentary, we are of the firm view that the prosecution has succeeded in proving the occurrence by adducing satisfactory evidence.

25. The learned counsel for the accused has drawn our attention to Ex.D-2 the statement recorded by the Judicial Magistrate, D.W.1 from Thangammal (since deceased) when she was admitted to the hospital immediately after the occurrence in support of his argument that the sum and substance of such statement would belie the prosecution case in entirety. He would contend that Ex.D-2 may be considered as a dying declaration of Thangammal (since deceased) and therefore the same sanctity attached to dying declaration deserves to be given in respect of the same so as to arrive at the right conclusion.

26. In this context, it is necessary to extract the relevant provision under Section 32(1) of the Indian Evidence Act so as to appreciate such contention.

"32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.-- Statements, written or verbal, or relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:--

(1) When it relates to cause of death.-- When the statement is made by

a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.
Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question."

27. In this case, admittedly Ex.D-2 was recorded on 14.5.1997 at 9.30 A.M. in the Government Hospital, Valparai and according to P.W.16, Investigating Officer, Thangammal the deponent under Ex.D-2 died on 23.12.1997, about 7 months after recording the said statement. It is not the case of either the prosecution or the defence that she died due to the injuries caused at the time of occurrence.

28. It is therefore urged by the learned Additional Public Prosecutor placing reliance on the ratio in the decision rendered by the Hon' ble Supreme Court in RATTAN SINGH v. STATE OF HIMACHAL PRADESH (AIR 1997 S.C. 768) as hereunder:-

"Section 32(1) of the Evidence Act renders a statement relevant which was made by a person who is dead in cases in which cause of his death comes into question, but its admissibility depends upon one of the two conditions: Either such statement should relate to the cause of his death or it should relate to any of the circumstances or transaction which resulted in his death. The collocation of the words in Section 32(1) "circumstances of the transaction which resulted in his death" is apparently of wider amplitude than saying "circumstances which caused his death". There need not necessarily be a direct nexus between "circumstances" and "death". It is enough if the words spoken by the deceased have reference to any circumstance which has connection with any of the transactions which ended up in the death of the deceased. Such statement would also fall within the purview of Section 32(1) of the Evidence Act. In other words, it is not necessary that such circumstance should be proximate, for, even distant circumstances can also become admissible under the sub-section, provided it has nexus with the transaction which resulted in the death."

29. A fair reading of the proposition of law laid down as above by the Apex Court would indicate clearly that at any stretch of imagination, Ex.D-2 cannot be considered as a dying declaration of Thangammal who died long time after the occurrence due to natural causes. Hence we are unable to endorse the view put forth by the learned counsel for the accused with reference to Ex.D-2, the statement of Thangammal which in our opinion is not helpful to the accused in any manner.

30. The next contention of the learned counsel for the accused is that the trial court was not correct in rendering the finding that the accused is guilty of the offence under Section 201 I.P.C. as the evidence of photographer, P.W.11 shows that at the time of taking photographs, the dead body of Saraswathi was exposed partly and buried half way. On the contrary, the learned Additional Public Prosecutor has drawn our attention to the

evidence of P.W.8, Tahsildar who exhumed the dead body and conducted the inquest (vide) Ex.P-8 inquest report and the evidence of P.W.10, Autopsy Surgeon, who conducted the postmortem at the place of occurrence itself and issued the post-mortem certificate, Ex.P-12. He has therefore contended that in view of such evidence, only after the body was exhumed, P.W.11, photographer could have taken the photographs. Hence, he has urged that the prosecution has proved that since the dead body of Saraswathi was buried by the accused and exhumed later during the course of investigation, the offence under Section 201 has also been made out in this case.

31. In this context, the learned counsel for the accused has also cited the decision of this Court, JOTHI BEGUM v. STATE (1990 L.W. ( Crl.) 132) which in our opinion will not be applicable to the facts of the present case as the dead body in the said case was found on the road side, but here in this case, it was totally buried under the earth in the tea garden. Hence, the ratio laid down therein cannot be made applicable to this case.

32. Per contra, the learned Additional Public Prosecutor has referred to the principle laid down by the Apex court on this aspect in VIJAYA v. STATE OF MAHARASHTRA (2003 Crl.L.J. 4318) as hereunder.

"What Section 201 requires is that the accused must have had the intention of screening the offender. To put it differently, the intention to screen the offender, must be the primary and sole object of the accused. The fact that the concealment was likely to have that effect is not sufficient, for Section 201 speaks of intention as distinct from a mere likelihood. The ingredients of offence under Section 201 are:--
(i) that an offence has been committed.
(ii) that the accused knew or had reason to believe the commission of such an offence.
(iii) that with such knowledge or belief he--
(a) caused any evidence of the commission of that offence to disappear, or (b) gave any information relating to that offence which he then knew or believed to be false.
(iv) that he did so as aforesaid with the intention of screening the offender from legal punishment."

33. If the evidence on record relating to the commission of the offence under Section 201 I.P.C. is scanned through in the light of the above ratio enunciated by the Apex Court, we have no hesitation to conclude that the guilt of the accused under Section 201 I.P.C. has also been proved beyond doubt.

34. The last contention put forth by the learned counsel for the accused is with reference to lack of blood stain found on the weapon, M.O.2 by the Chemical Examiner (vide) Ex.P-16 and therefore he would urge that the same has not been used for the commission of the offence.

35. On a careful reading of the evidence of P.W.7, Supervisor working in Nadumalai Estate regarding the recovery of material objects inclusive of M.O.2, iron rod and the evidence of the Investigating Officer, P.W.15 in the

light of the admissible portion of the confession statement, Ex.P-5 and the mahazar for recovery of the articles Ex.P-3, we have no other option except to hold that such evidence has not been challenged by the accused in any manner. Hence we have no hesitation to come to the conclusion that even though the Serologist report, Ex.P-16 does not disclose that M.O.2, iron rod contained the same blood group of the deceased, the same had been well connected by cogent evidence adduced by the prosecution that the accused used the same, while committing the offence of murder of the deceased Saraswathi.

36. For the aforesaid reasons, we are of the considered view that the learned Principal Sessions Judge, Coimbatore having analysed the evidence of the prosecution, both oral and documentary arrived at the proper conclusion that the charges levelled against the accused, the appellant herein have been proved by the prosecution beyond reasonable doubt.

37. Thus, we find no reason to interfere with the judgment of conviction and sentence rendered by the learned Principal Sessions Judge, Coimbatore in this case. The appeal is therefore dismissed.

Index : Yes/No
Website: Yes/No
dpp

To

1. The Principal Sessions Judge, Coimbatore.
2. The Inspector of Police,Valparai Police Station,Valparai.
3. The Superintendent, Central Prison, Coimbatore.
4. The District Collector, Coimbatore.
5. The Director General of Police, Chennai.
6. The Public Prosecutor, High Court, Chennai.

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